IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 18232 of 2000

Between:

V.V. Subbaiah S/o. V. Venkataiah
Salabad Village, Vontimetta Mandal,
Cuddapah Dist.

..... PETITIONER

AND

1 The Industrial Tribunal-cum-Labour Court, Anantapur.
2 The Depot Manager, A.P.S.R.T.C., Kuppam Depot,
Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, Order or direction especially in the nature of Writ of Certiorari calling for records relating to award dated 2-5-94 in I.D.No. 6/92 on the file of 1st respondent herein and quash the same as illegal and unjust and in consequence direct the 2nd respondent to reinstate the petitioner into service with all attended benefits, continuity of service and back wages.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondent No.1: G.P. for Labour.

Counsel for the Respondent No.2: MR.P.VINAYAKA SWAMY, Standing Counsel.

The Court made the following :

O R D E R :

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The petitioner, who has been a conductor with the second respondent, filed this Writ Petition, inter alia, seeking to assail the award dated 02.05.1994 in I.D.No.6 of 1992 passed by the first respondent herein.

The case of the petitioner, in brief, is that in pursuance of sudden check made and certain irregularities being found, charge sheet was issued on 02.08.1989 listing out all the charges, whereupon on consideration of explanation and holding a domestic enquiry, the petitioner was removed from service on 08.03.1990 and the appeal filed by him also was rejected. Subsequently, after long delay at the instance of the petitioner alone, the dispute was referred to the first respondent viz. Labour Court, which was taken on file as I.D.No. 6 of 1992 wherein the first respondent on consideration of the facts and circumstances, answered the said dispute in negative holding that the petitioner is not entitled to any indulgence, much less modification of the punishment under Section 11(A) of the Industrial Dispute Act (for short, 'the Act'). Hence, this Writ Petition.

The learned counsel appearing on behalf of the petitioner submits that having regard to the fact that the petitioner has been in suspension and it is only due to a fire accident which occurred in the village, there has been a delay in approaching the Labour Court and further, now the petitioner being virtually at the fag end of his service, no breach will be caused by ordering his reinstatement with other benefits.

The learned standing counsel appearing on behalf of the respondents sought to repel the aforesaid contentions and submits that having regard to the facts and circumstances of the case, no indulgence need be shown nor Section 11(A) of the Act can be made applicable.

There is no dispute to the fact that the petitioner was working as a Conductor and in a sudden check made, certain irregularities were found. Thereupon, a charge sheet was issued on 02.09.1989 and the charges are as under:

1. For having pasted a slip paper in the S.R.No.119/61801, dt.7.8.1989 of Rs.15/- deno., from stages 19 to 10 (i.e. from Ongole to Renigunta) to conceal the exact number of ticket issued of Rs.15/- deno., which constitutes misconduct under Reg.28(xxx) of APSRTC Employees (Conduct) Reg. 1963.

2. For not tallying the number of passengers with the ticket issues in the Statistical return no.61801 at stage nos. 19, 15 and 9 i.e. at Ongole, Nellore and Tirupathi in the return trip from Ongole to Kuppam on 7.8.1989 which constitutes misconduct under Reg. 28 (xxxi) of APSRTC Employees (conduct) Reg. 1963.

3. For having shown 3 ticket issues of Rs.2/- deno. at Ongole without showing their combination tickets of Rs.15/- deno. or Rs.20/- deno. and for having shown 16 ticket issues of Rs.3/- deno. tickets without showing their combination tickets of Rs.15/- and without tallying ticket issued with the number of passengers in the S.R. clearly indicating that you have reissued the tickets of Rs.15/- deno. at Ongole and Nellore which constitutes misconduct under Reg. 28 (xxiii) of APSRTC Employees (conduct) Reg. 1963.

4. For having reissued the Rs.15/- deno. tickets in between stages of Ongole and Tirupathi (i.e. 19 and 9 stages) and pasted a paper on the column to cover up your pilferage which constitutes misconduct under Reg.28 (xxiii) of APSRTC Employees (conduct) Reg., 1963.

5. For having altered the ticket closing numbers of Rs.15/- denos. at stage no.9 in the S.R.No. 61801 on 7.8.1989 which constitutes misconduct under Reg. 28 (xxxi) of APSRTC Employees (conduct) Reg., 1963.

6. After completion of your duty you have closed the Rs.0.25 ps. deno. as 802 even though you have issued 66 tickets 802 to 868 at stage no.13 and remaining 32 tickets of the same block were issued at stage no.14 as per S.R. and you have remitted an amount of Rs.0.50 ps. only instead of Rs.25/- short in your bus cash which constitutes misconduct under Reg. 29 (x) of

APSRTC Employees (conduct) Reg., 1963.

7. For having opened Rs.0.60 ps. deno. ticket at stage no.1 in the up journey as 073/348208 and issued 6 tickets, hence closed the number as 214 and continued up to stage no.5 only in the down journey. But, remitted cash for the whole block vide way bill no.40269 and you have remitted excess bus cash, which constitutes misconduct under Reg.28 (xxiv) of APSRTC Employees (conduct) Reg., 1963."

Initially he was removed from service and subsequently reinstated by award of the Labour Court in I.D.No. 230 of 1987. Even before, not only on the various allegations as found from the aforesaid all the charges but also the gravity thereof and especially taking into consideration the delay in approaching the Labour Court, it was found that no indulgence can be shown in favour of the petitioner. Even on the facts and circumstances of the case, there is no justification for giving any relief in regard to the punishment, more so, in view of the delay occurred. Be that as it may, on a reading of the charges would reveal that the petitioner is quite sufficiently responsible for the said irregularities. The Labour Court also took note of the fact that the petitioner was already censured for four times and on one earlier occasion, removed from service on such irregularities which, however, subsequently was set aside and he was reinstated. Having regard to the facts and circumstances of the case especially the seriousness of the charges and the allegations as made against the petitioner, I do not find any justification in the case of the petitioner. Hence, there are no merits in the present Writ Petition.

The Writ Petition is, accordingly, dismissed. No costs.

13.12.2004

13.12.2004

DRK

Copy to:

1 The Industrial Tribunal-cum-Labour Court, Anantapur.
2 The Depot Manager, A.P.S.R.T.C., Kuppam Depot,
Chittoor Dist.

3. Two CCs to the G.P. for Labour, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

4. Two CD copies.